

DENNIS J. HERRERA, State Bar #139669  
City Attorney  
ELIZABETH SALVESON, State Bar #83788  
Chief Labor Team  
MARGARET W. BAUMGARTNER, State Bar #151762  
ADELMISE R. WARNER, State Bar # 215385  
Deputy City Attorneys  
Fox Plaza  
1390 Market Street, Floor No. 5  
San Francisco, California 94102-5408  
Telephone: (415) 554-3859  
Facsimile: (415) 554-4248  
E-mail: margaret.baumgartner@sfgov.org

Attorneys For Defendants  
CITY AND COUNTY OF SAN FRANCISCO, ET AL.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLIFFORD COOK,

Plaintiff,

vs.

CITY AND COUNTY OF SAN  
FRANCISCO, ANTONIO FLORES,  
DON SLOAN, MARSHA ASHE, and  
DOES 1-50, inclusive,

Defendants.

Case No. C 07 - 2569 CRB

**DEFENDANT CITY AND COUNTY OF  
SAN FRANCISCO'S CASE  
MANAGEMENT CONFERENCE  
STATEMENT**

Date: June 13, 2008

Time: 8:30 a.m.

Place: Courtroom 8, 19<sup>th</sup> Floor

//

//

//

//

//

//

//

//

//

## UPDATE ON STATUS OF CASE

The court recently granted the City and County of San Francisco ("City") and the individual defendants' motion for partial summary judgment on plaintiff's 42 U.S.C. sec. 1983 claim based on equal protection. That claim related to plaintiff's arrest.

The City attempted to contact plaintiff's counsel regarding a joint case management statement but received no response. The City therefore files this statement.

### 1. Jurisdiction and Service

The court has jurisdiction, and service had been made on all defendants. The only defendant remaining is the City and County of San Francisco.

### 2. Facts

The remaining causes of action relate to the San Francisco Police Department's temporary suspension of plaintiff pending a criminal investigation. The Department immediately suspended plaintiff after his arrest based on the information it had regarding plaintiff's domestic violence incident with his wife. The San Francisco Charter provides for a temporary suspension in these circumstances. Plaintiff then exercised his right to have an administrative hearing to determine if he should remain suspended pending the conclusion of the criminal investigation. After that hearing, the Chief determined that plaintiff would remain suspended. Upon the District Attorney's decision to dismiss the case, the Department placed plaintiff back on duty. He remains on duty in a disarmed status pending the conclusion of the disciplinary case.

### 3. Legal Issues

Plaintiff claims race discrimination. The City believes that it had a legitimate non-discriminatory basis for the temporary suspension.

### 4. Motions

The City filed a motion for partial summary judgment. After discovery on the remaining issues, the City intends to file an additional motion for partial summary judgment on the remaining claims.

//

1 **5. Amendment**

2 As far as the City is aware, there will be no amendments to the pleadings.

3 **6. Evidence preservation**

4 The City believes that it has taken the necessary steps to preserve evidence. The  
5 Department is not aware of any electronic evidence relevant to this matter.

6 **7. Disclosures**

7 The City will comply with any obligations to provide initial disclosures, although the City  
8 believes that plaintiff is already in possession of any relevant information.

9 **8. Discovery**

10 The discovery taken to date was limited to the issues of equal protection. The City  
11 anticipates taking an additional deposition of plaintiff on the remaining issues. The City is unsure  
12 as to what discovery plaintiff intends to take.

13 **9. Related cases**

14 There is a related case pending in the Superior Court, which has been stayed pending this  
15 matter.

16 **10. Relief**

17 The City is not aware of what plaintiff seeks as relief.

18 **11. Settlement and ADR**

19 The City does not believe that this matter is amenable to settlement until after the City has  
20 had an opportunity to present an additional motion for partial summary judgment.

21 **12. Other References**

22 None.

23 **13. Consent to Magistrate**

24 The parties have not consented to a magistrate.

25 **14. Narrowing of Issues**

26 The City believes that the issues are narrowed to whether or not plaintiff's temporary  
27 suspension was racially discriminatory.

1 **15. Expedited Schedule**

2 The City believes that the remaining issues are narrow, and should be able to be addressed  
3 quickly.

4 **16. Scheduling**

5 The City recommends setting a date for trial in January or February of 2009, with a motion  
6 date in November.

7 **17. Trial**

8 The City anticipates that the trial will last three days.

9 **18. Disclosure of Non-party Interested Entities**

10 The City filed a certificate, and knows of no new interested entities.

11 Dated: June 3, 2008

DENNIS J. HERRERA

12 City Attorney

ELIZABETH SALVESON

13 Chief Labor Attorney

14 MARGARET W. BAUMGARTNER

ADELMISE R. WARNER

15 Deputy City Attorneys

16 By: /s/ Margaret W. Baumgartner

17 MARGARET W. BAUMGARTNER

18 Attorneys for Defendants CITY AND

COUNTY OF SAN FRANCISCO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28